

SENATE BILL 73

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11r0954

By: **Senator Benson**

Introduced and read first time: January 20, 2011

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Public Health – State Anatomy Board and Practitioners – Disposition of**
3 **Bodies**

4 FOR the purpose of authorizing a certain practitioner who has custody of a body to
5 dispose of the body in a certain manner or to provide a certain notice to the
6 State Anatomy Board regarding the body under certain circumstances;
7 requiring the Board to take custody of a certain body within a certain time
8 period after a certain notification is given; authorizing a practitioner or the
9 Board to recover certain costs from an authorizing agent under certain
10 circumstances; specifying that a practitioner or the Board is not liable for any
11 action taken in accordance with this Act; authorizing the State Anatomy Board
12 to receive payment for the cost of storing a body before releasing the body to a
13 relative or friend of the deceased; defining a certain term; and generally relating
14 to the disposition of bodies by the State Anatomy Board and practitioners.

15 BY repealing and reenacting, with amendments,
16 Article – Health – General
17 Section 5–406
18 Annotated Code of Maryland
19 (2009 Replacement Volume and 2010 Supplement)

20 BY repealing and reenacting, without amendments,
21 Article – Health – General
22 Section 5–508(a), (b), and (f)
23 Annotated Code of Maryland
24 (2009 Replacement Volume and 2010 Supplement)

25 BY adding to
26 Article – Health – General
27 Section 5–513
28 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2009 Replacement Volume and 2010 Supplement)

2 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
3 MARYLAND, That the Laws of Maryland read as follows:

4 **Article – Health – General**

5 5–406.

6 (a) (1) A public officer who has control of a body immediately shall notify
7 the chairman of the Board if, after a reasonable search, the public officer has not found
8 a person who will take control of the body for its final disposition.

9 (2) Subject to the limitations imposed on nursing homes under §
10 10–214 of the Human Services Article, any other person who has control of a body may
11 notify the Board if, after a reasonable search, the person has not found a person who
12 will take control of the body for its final disposition.

13 (b) (1) Subject to the time limitations in this subsection, when the Board
14 is notified of the existence of a body, the Board may remove the body to a morgue in
15 Baltimore City that the Board designates for that purpose.

16 (2) If the person who notifies the Board can refrigerate the body
17 suitably, the body may be removed only at the expiration of 72 hours after death.

18 (3) If the person who notifies the Board cannot refrigerate the body
19 suitably, the body may be removed as soon as feasible after death, and, on arrival at
20 the morgue, shall be refrigerated until the expiration of 72 hours after death.

21 (c) (1) On expiration of 72 hours after death, the body shall be under the
22 exclusive control of the Board and may be embalmed.

23 (2) If the body is embalmed, it shall be embalmed in a proper manner
24 by an individual whom the Board designates.

25 (3) Any relative or friend of the deceased may claim the body and, on
26 payment to the Board of its cost of moving, **STORING**, and embalming the body, shall
27 receive it.

28 (4) The Board may waive its costs under this section upon a showing
29 of hardship by the relative or friend.

30 5–508.

31 (a) In this subtitle the following words have the meanings indicated.

1 (b) "Authorizing agent" means the individual who has legal authority to
2 arrange for and make decisions regarding the final disposition of a dead human body,
3 including by cremation.

4 (f) "Practitioner" means a person who is licensed by the State as a funeral
5 director, mortician, or surviving spouse licensee to practice mortuary science.

6 **5-513.**

7 (A) IN THIS SECTION, "BOARD" MEANS THE STATE ANATOMY BOARD.

8 (B) A PRACTITIONER MAY DISPOSE OF A BODY THAT IS IN THE
9 PRACTITIONER'S CUSTODY IN ANY MANNER AUTHORIZED BY LAW AND WITHOUT
10 A COURT ORDER OR NOTIFY THE BOARD THAT IT NEEDS TO TAKE POSSESSION
11 OF A BODY THAT IS IN THE PRACTITIONER'S CUSTODY IF:

12 (1) 30 DAYS HAVE PASSED SINCE THE PRACTITIONER TOOK
13 CUSTODY OF THE BODY;

14 (2) THE DECEDENT DID NOT DIRECT THE DISPOSITION OF THE
15 DECEDENT'S BODY UNDER § 5-509(A) OF THIS SUBTITLE;

16 (3) A PETITION REQUESTING THAT A COURT DECIDE THE FINAL
17 DISPOSITION OF THE BODY HAS NOT BEEN FILED UNDER § 5-510 OF THIS
18 SUBTITLE; AND

19 (4) (I) AFTER A REASONABLE SEARCH, THE PRACTITIONER
20 HAS NOT FOUND AN AUTHORIZING AGENT; OR

21 (II) THE PRACTITIONER HAS MADE REASONABLE BUT
22 UNSUCCESSFUL EFFORTS TO RECEIVE INSTRUCTIONS FOR THE FINAL
23 DISPOSITION OF THE BODY FROM AN AUTHORIZING AGENT.

24 (C) IF THE BOARD IS NOTIFIED UNDER SUBSECTION (B) OF THIS
25 SECTION, THE BOARD SHALL TAKE CUSTODY OF THE BODY WITHIN 3 DAYS
26 AFTER THE NOTIFICATION IS GIVEN.

27 (D) IF AN AUTHORIZING AGENT IS KNOWN TO A PRACTITIONER, BUT
28 FAILS TO GIVE THE PRACTITIONER INSTRUCTIONS FOR THE FINAL DISPOSITION
29 OF A BODY, THE PRACTITIONER OR THE BOARD MAY RECOVER ANY COSTS FROM
30 THE AUTHORIZING AGENT THAT THE PRACTITIONER OR BOARD INCURS FOR
31 ACTIONS TAKEN IN ACCORDANCE WITH THIS SECTION.

1 **(E) A PRACTITIONER OR THE BOARD IS NOT LIABLE FOR ANY ACTION**
2 **TAKEN IN ACCORDANCE WITH THIS SECTION.**

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 2011.